much of SBC's analysis"). But the absence of usage on a TN during a given period does not itself mean that the bill is incorrect. See Brown/Cottrell/Flynn Reply Aff. ¶ 44. For example, vacation residences that are occupied for only certain parts of the year could experience substantial fluctuations in usage, including many months of no usage at all. Indeed, of the 345 TNs that AT&T contends fall into this "no usage" category, SBC has confirmed that only two, in fact, were the result of SBC errors in processing an AT&T disconnect order. See id. ¶¶ 45-46.[5]

Finally, AT&T claims that its allegations in this regard, even if discredited, nevertheless establish that SBC's and AT&T's "systems do not agree," and that SBC accordingly does not satisfy Checklist Item 2. AT&T Comments at 35. SBC's burden in this proceeding is not to establish that its systems "agree" with AT&T's. Rather, it is to demonstrate that it provides "competing carriers with . . . wholesale bills in a manner that gives [them] a meaningful opportunity to compete." California Order, App. C, ¶ 39. For the reasons explained above, SBC has easily carried that burden.

AT&T also purports to provide "additional" billing evidence, not on the record in the Michigan proceeding, that, in its view, demonstrates systemic problems in SBC Midwest's billing processes. See AT&T Comments at 30-31. The sum total of this "new" evidence,

[5] On August 25, four days before the due date of these Reply Comments, AT&T filed an ex parte in the Michigan proceeding providing further details on the "time consuming and tedious process" of resolving the proper billing of the TNs AT&T has placed in dispute. See Ex Parte Letter of Jacqueline G. Cooper on behalf of AT&T to Marlene Dortch, FCC, WC Docket No. 03-138, Attach. at 1 (FCC filed Aug. 25, 2003). SBC is evaluating the information contained in this letter. See Brown/Cottrell/Flynn Reply Aff. ¶ 43. For present purposes, this ex parte is relevant only insofar as it confirms both the extraordinary complexity of the billing systems in question – which is what makes the resolution of AT&T's dispute so "time consuming and tedious" – as well as the inappropriateness of attempting to resolve such disputes in connection with a section 271 application, instead of in business-to-business discussions or, if necessary, before the appropriate state commission.

however, is a loop zone classification issue that SBC itself disclosed, and the contention that SBC is inappropriately billing for nonrecurring charges on so-called "no field work." As to the first, as SBC has previously explained, SBC Midwest has taken extensive steps to ensure that it charges CLECs according to the appropriate rate zone, and E&Y has validated those steps and confirmed that SBC's processes are sufficient to ensure accuracy in this respect. See Brown/Cottrell/Flynn Aff. ¶¶ 111-118; see also Brown/Cottrell/Flynn Reply Aff. ¶¶ 108-109. As to the second, AT&T's complaint appears to stem in large part from its own misunderstanding regarding when new installation nonrecurring rates apply, compared to when migration nonrecurring rates are to be applied. See Brown/Cottrell/Flynn Reply Aff. ¶¶ 111-114. Considered in the context of the abundance of evidence SBC has provided demonstrating the accuracy and reliability of its systems, AT&T's "additional" evidence thus falls far short of rebutting SBC's showing of checklist compliance.

For its part, MCI alleges "discrepancies in SBC's internal databases" that lead to inconsistencies between SBC's lines-in-service report and "other data." MCI Comments at 7. MCI is plainly trying to put SBC in a catch-22. The lines-in-service report was designed for the precise purpose of identifying such "discrepancies" – i.e., to permit MCI to work with SBC on a business-to-business basis to identify any billing-related issues and to facilitate their resolution. See Brown/Cottrell/Flynn Reply Aff. ¶¶ 49, 53. MCI's effort to use that report to its regulatory advantage, if credited by this Commission, would, in effect, penalize SBC for working with its wholesale customers to identify and resolve billing issues.

In any event, MCI's allegations relating to SBC's lines-in-service report are vastly overstated. Indeed, even if one credited MCI's allegations with respect to each TN it identifies

as an SBC error, it would amount to a miniscule error rate of MCI's lines in service. See id. ¶ 49. Thus, like AT&T's allegations, MCI's allegations on their face fail to call into question the overall accuracy and reliability of SBC's systems, even assuming them to be true. And, also like AT&T's, they are not true. SBC has conducted an initial analysis of the 6,090 TNs MCI provided, and it has concluded that, for 69% of them, any discrepancy between the lines-in-service report and MCI's records is due to MCI's own recordkeeping errors. See id. ¶ 50. Thus, to the extent MCI's allegations are relevant at all, they demonstrate only that – like AT&T – MCI is all too willing to blame SBC for problems that are of its own making.

The remainder of the billing disputes raised in this proceeding are exactly that – billing *disputes*. See Z-Tel Comments at 11; Access One Comments at 2; ACN et al. Comments at 4-14; CIMCO Comments at 7; Forte Comments at 11-12; TDS Metrocom Comments at 8-23; NTD Comments at 2-9. SBC replies to those disputes in extraordinary detail in the attached Reply Affidavit of Justin Brown, Mark Cottrell, and Michael Flynn (¶¶ 90-146). As these affiants explain, the disputes fall into a number of different categories, with the majority of them relating to rate administration and/or contract interpretation issues which SBC believes it has resolved appropriately. See Brown/Cottrell/Flynn Reply Aff. ¶ 90; see generally id. ¶¶ 90-107. For present purposes, however, the key point is that, wherever there is local competition that depends in part on access to the incumbent's facilities, there will be billing disputes. Through CABS, SBC Midwest bills more than $3 billion per year, and generates more than 6,000 monthly CLEC bills for a variety of UNE and interconnection products. See id. ¶ 5. With these volumes, it is simply unrealistic to expect perfection.

Moreover, no party to this proceeding has an answer to the undisputed fact that the volume of billing disputes in each of the applicant states over the 17 months leading up the Application is comparable to the volume of disputes in other states for which the Commission has granted section 271 approval. See Brown/Cottrell/Flynn Aff. ¶ 130 & n.130.[6] As it did in Michigan, the DOJ questions whether this figure has any probative value, see DOJ Eval. at 13 n.55, but, as in Michigan, it does not address the purpose for which the figure was introduced – namely, if SBC were really having serious billing problems in the Midwest, one would expect to see a significantly higher percentage of billing disputes. The evidence does not support this theory. To warrant a finding of checklist non-compliance with respect to wholesale billing, the Commission requires commenters to "demonstrate that [the applicant]'s billing performance is 'materially worse'" than in other states with section 271 approval. Virginia Order ¶ 40. As the evidence makes clear, commenters here have failed to carry that burden.

Commenters have also utterly failed to demonstrate that any billing problems they have experienced in the Midwest region have deprived them of a meaningful opportunity to compete. The Commission has repeatedly made clear that this standard governs the question of wholesale

[6] AT&T's only response to this point is that the figures offered for this Application do not include dollar volumes that AT&T thinks were billed incorrectly but that AT&T has not raised through the formal dispute resolution process. See AT&T Comments at 42 n.90. The DOJ shares the same concern. See DOJ Eval. at 13 n.55. The figures presented in other states likewise excluded such volumes, and accordingly present an apples-to-apples comparison. See Brown/Cottrell/Flynn Reply Aff. ¶ 78. The DOJ's concern that the data are not broken down by month, see DOJ Eval. at 13 n.55, appears deliberately to ignore the stated rationale for providing an aggregate figure – i.e., to normalize peaks and valleys in CLEC claim activity. See Brown/Cottrell/Flynn Aff. ¶ 131; Brown/Cottrell/Flynn Reply Aff. ¶ 75. The DOJ does not explain its additional suggestion that the inclusion of states that received 271 relief at some point in the 17-month period skews the figure, nor does it elaborate on the "other reasons" that it thinks render this figure "insufficient." See DOJ Eval. at 13 n.55.

billing,[7] yet, as even the Department must ultimately admit (in what can only be described as an understatement), "the CLECs could have more fully demonstrated the extent to which [the alleged billing] problems have adversely affected their ability to compete." DOJ Eval. at 12. Indeed, the *only* evidence – or "data," as the DOJ describes it – bearing on this point are the CLECs' self-serving allegations that, because SBC Midwest's bills are purportedly problematic, they must spend time and resources reviewing them. See id. at 11 & n.48 (citing NTD Comments at 8; TDS Metrocom Comments at 9; and AT&T's DeYoung/Tavares Decl. ¶¶ 28-29).

Even this "data," however, crumples under the most cursory analysis. AT&T's "data," for example, simply asserts that two employees spend so much time dealing with SBC Midwest's bills, they are "unable properly to address billing issues that arise in other states that are within their responsibility." AT&T's DeYoung/Tavares Decl. ¶ 29. By its own terms, that "data" fails to explain how much time would be spent on bills in other states, if in fact AT&T reviewed them "properly," nor does it compare the volume of bills AT&T receives in those states (or even identify what those states are). TDS Metrocom's "data" consists of a similar assertion likewise devoid of any information that would put it in context. See TDS Metrocom Comments at 9 (asserting that it spends time reviewing SBC Midwest bills – 30% of the time of a five-person team – and that an affiliate, USLink, "has not experienced the same level of problems" with the bills it receives from Qwest).[8] Finally, the sum total of NTD's "data" is the bare

[7] See, e.g., Pennsylvania Order ¶¶ 14-15; Kansas/Oklahoma Order ¶ 163; Georgia/Louisiana Order ¶ 173.

[8] The DOJ cites TDS Metrocom's comments for the proposition that it has not experienced "*anywhere near* the same magnitude of billing problems with Qwest as it has with SBC Midwest." DOJ Eval. at 11 n.48 (citing TDS Metrocom Comments at 9) (emphasis added).

assertion that it has been "forced" to hire a single employee "dedicated to reviewing SBC bills and disputing billing inaccuracies and improper charges." NTD Comments at 8.

As noted at the outset, CLECs have made enormous inroads in the local markets in the Midwest region. The truth is that the "data" cited by the Department establishes nothing more than the fact that the CLECs incur an ordinary cost of doing business associated with such entry – they expend resources to review their bills. This "data" says nothing about whether they spend comparatively more than in other regions, taking into account relative bill volumes and other relevant factors, much less about whether any such additional expenditure is limiting in any way their ability to compete. CLECs have, moreover, offered similar "data" in the past, including in a state with substantial attention focused on billing.[9] In that case, this "data" did not even

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The superlative is the Department's, not TDS Metrocom's. In addition, as noted in the text, the comparison TDS Metrocom drew was to the bills received by an affiliate, not by TDS Metrocom itself.

[9] See, e.g., Vycera Comments at 10, WC Docket No. 02-306 (FCC filed Oct. 9, 2002) ("[W]holesale bills from Pacific Bell are inaccurate to such a degree that Vycera has spent literally hundreds, possibly thousands, of hours developing mechanized audits for its local resale bills. . . . Vycera has a team of personnel who each week review the mechanized audits, spot check by doing manual audits, create and submit disputes. Vycera has done this out of necessity, not out of desire."); Ex Parte Letter from Ross Buntrock on behalf of Telscape to Marlene Dortch, FCC, WC Docket No. 02-306, at 3 (FCC filed Oct. 18, 2002) ("Telscape has hired a full-time bill auditor to audit SBC's bills (both electronic and paper) and Telscape spends hours each week on the telephone with SBC on weekly billing conference calls. Telscape has found billing errors each and every month that Telscape has done business with SBC."); Mpower Comments at 6, WC Docket No. 02-306 (FCC filed Oct. 9, 2002); see also Comments of NTELOS Network Inc. and R&B Network Inc. at 5, WC Docket No. 02-214 (FCC filed Aug. 21, 2002) ("The billing for UNEs and other wholesale products" by Verizon in Virginia "is often inaccurate, causing CLECs to incur expenses and deploy scarce resources to review, research and dispute improper charges.").

warrant a mention from the Department.[10] It is unclear why the Department reaches a different result here.

In sum, SBC has provided a wealth of evidence – including extensive and repeated third-party testing, as well as the approval of some of the most vigorous state commissions in the land – to demonstrate that its wholesale bills are sufficiently accurate, reliable, and timely to permit CLECs a meaningful opportunity to compete. The CLEC efforts to rebut that showing fail on their face to establish that any billing issues have affected their ability to compete in any significant way.

II. LINE SPLITTING

As they did in the pending Michigan application, AT&T and MCI broadly challenge SBC's line-splitting processes in the Midwest region. In large part, these commenters simply rehash claims that have been raised and rebutted in the Michigan proceeding, and these claims fail here for the same reasons they fail there. Where these commenters have raised something new – in their challenges, for example, to the nonrecurring charges associated with line splitting – they have nonetheless failed to rebut SBC's showing of checklist compliance.

A. Converting UNE-P to Line Splitting.

AT&T and MCI take issue with SBC's processes for converting UNE-P arrangements to line splitting. See AT&T Comments at 11-14; MCI Comments at 1. Critically, however, these commenters wholly fail to dispute the core aspect of SBC's showing in this regard: that each of the BOC Applicants offers CLECs the ability to engage in line splitting *using the same processes*

[10] See Evaluation of the Department of Justice, WC Docket No. 02-306 (FCC filed Oct. 29, 2002) (declining to comment on billing allegations raised by CLECs); see also Evaluation of the Department of Justice, WC Docket No. 02-214 (FCC filed Sept. 5, 2002) (same).

that this Commission considered and approved in the Texas Order, the Kansas/Oklahoma Order, and the Arkansas/Missouri Order. See Chapman Reply Aff. ¶ 2 (Reply App., Tab 5). Specifically, CLECs can order an unbundled loop terminated to a voice or data CLEC's collocation cage, together with cross-connects and an unbundled switch port. See Chapman Aff. ¶¶ 82-89. Moreover, CLECs can establish a new line-splitting arrangement, or convert any existing UNE-P customer to a line-splitting arrangement, by means of a single LSR. Id. ¶¶ 87-88; Chapman Reply Aff. ¶¶ 2, 20. No party disputes that each of the BOC Applicants offers these capabilities, nor do they contest that these processes were held to be sufficient previously. The absence of such a challenge is dispositive of their claims. If SBC's UNE-P to line-splitting processes were sufficient to meet approval in Texas, Kansas, Oklahoma, Arkansas, and Missouri – and the Commission's precedent makes clear that they were – it follows that they are sufficient to warrant approval here.

MCI nevertheless claims that SBC Midwest's UNE-P to line-splitting processes are "deficien[t]" because they "forc[e] CLECs to disconnect the UNE-P arrangement and reconnect it as a separate [xDSL-capable loop] and [unbundled switch port]." MCI Comments at 1. This allegation is mystifying. As this Commission has explained, when a CLEC seeks to convert a UNE-P customer to a line-splitting arrangement, the ILEC must provide "an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport, to replace [the CLEC's] existing UNE-platform arrangement." Line Sharing Reconsideration Order[11] ¶ 19; see Texas Order ¶ 325. What MCI describes, then, is exactly what the Commission requires.

[11] Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed

For its part, AT&T "incorporates . . . by reference" its complaints in the Michigan proceeding – to wit, that BearingPoint's test of SBC's UNE-P to line-splitting processes revealed mistaken documentation, excessive manual handling of orders, and too many outages. AT&T Comments at 11 n.4. Unsurprisingly, AT&T neglects to mention that BearingPoint found SBC's process for converting UNE-P to line splitting to be satisfactory. See Chapman/Cottrell Reply Aff. ¶¶ 15-18, WC Docket No. 03-16 (FCC filed Mar. 4, 2003) (App. M, Tab 198). In fact, BearingPoint's detailed results for ordering and provisioning of unbundled xDSL loops and unbundled switch ports – which are included in the BearingPoint report in both its ordering and provisioning tests – rebut each of AT&T's three claims. SBC has made this point previously,[12] moreover, and, tellingly, AT&T offers nothing in response.

B. Nonrecurring Charges Associated with Line Splitting

In addition to its claims regarding the BOC Applicants' processes, AT&T complains that the BOC Applicants' nonrecurring charges ("NRCs") for line splitting are not TELRIC-based. See AT&T Comments at 46-47. According to AT&T, the BOC Applicants "cobbled" these rates together from a "hodge-podge" of sources to form a set of "line splitting NRCs" that cover the costs of services it does not in fact perform. See AT&T's DeYoung/Henson/Willard Decl. ¶¶ 51, 58.

AT&T's complaint rests on a profound misunderstanding of the charges in question. SBC Midwest does not provide a "line splitting" product to CLECs, and there is accordingly no

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Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 16 FCC Rcd 2101 (2001) ("Line Sharing Reconsideration Order").

[12] See SBC Reply Comments at 39, WC Docket No. 03-16 (FCC filed Mar. 4, 2003).

such thing as "line splitting NRCs." See Chapman/Wardin/Butler/McKenzie/VanderSanden Reply Aff. ¶ 4 ("NRC Reply Aff.") (Reply App., Tab 6). As noted above, when a CLEC wishes to engage in line splitting, it orders two UNEs: an xDSL-capable loop and a stand-alone switch port, both of which SBC Midwest provisions to the CLEC's collocation space. See id.; Chapman Aff. ¶ 83. And the NRCs that SBC Midwest charges in that circumstance are the charges that apply to these UNEs in the ordinary course. See NRC Reply Aff. ¶¶ 4, 19-21.

Thus, for example, when a CLEC seeks to convert an end user from UNE-P to line splitting, it submits an order requesting that SBC Midwest disconnect the combined voice-grade loop and switch port (and related cross connect), connect an xDSL-capable loop to the facility designated by the CLEC, and connect a switch port to the appropriate facility. Id. ¶¶ 23-26. Accordingly, in this circumstance, SBC Midwest performs the work necessary for – and is entitled to charge any NRCs associated with – disconnecting the UNE-P, pre-ordering and ordering the unbundled loop and port, connecting the xDSL-capable loop, and connecting the stand-alone switch port. Id. ¶¶ 23-26, 36. Likewise, when a CLEC seeks to convert an end user from line sharing to line splitting with a change in splitter, it submits an order requesting that SBC Midwest move the physical connections for both the loop and the port. Id. ¶¶ 27-29. And, again, SBC Midwest performs those functions and is entitled to charge any NRCs associated with them. Id.[13]

[13] Where the CLEC seeks to convert an end user from line sharing to line splitting *without* a change in splitter, the loop facilities and the TN of the port are re-used. See NRC Reply Aff. ¶ 28. Because the CLEC in this scenario has not requested any physical change in facilities, only service order charges typically apply. See id. ¶ 28 & n.21.

Much of AT&T's confusion on this point appears to stem from its misunderstanding of the Line Sharing Reconsideration Order. As it has done throughout the Michigan proceeding, AT&T relies on that order to insist that line splitting is really just UNE-P. See AT&T Comments at 45 & n.93; AT&T's DeYoung/Henson/Willard Decl. ¶¶ 25-27. As a result, in AT&T's view, the NRCs associated with line splitting should be the same as those associated with UNE-P. See AT&T Comments at 46-47; AT&T's DeYoung/Henson/Willard Decl. ¶¶ 25-27, 63-65.

Line splitting is not, however, UNE-P – either as a physical matter or under this Commission's precedent. As explained above, the Line Sharing Reconsideration Order makes clear that the ILEC's "obligation" with respect to transitioning a CLEC UNE-P customer to line splitting is to permit the CLEC to "order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport, to *replace* its existing UNE-platform arrangement." Line Sharing Reconsideration Order ¶ 19 (emphasis added). Again, when a CLEC "order[s] an xDSL-capable loop," along with "unbundled switching with shared transport," to its collocation space to "replace" its UNE-P arrangement, SBC Midwest must perform a host of functions. A UNE-P, by contrast, is designed to be entirely self-contained within SBC's network and does not require the same ordering, provisioning, and maintenance flows. See NRC Reply Aff. ¶ 21 n.18. Accordingly, the fact that the NRCs associated with these two distinct scenarios vary significantly is consistent both with Commission precedent and with the way in which the scenarios are provided to the CLEC.

AT&T also appears to be confused about whether the state commissions in the applicant states have reviewed the NRCs in question and approved them in the line-splitting context. See

AT&T Comments at 44 ("there have been no findings by *any* of the four state commissions that the NRCs SBC seeks to impose in connection with line splitting are consistent with TELRIC"). To be clear, although there is, as noted, no such thing as "line splitting NRCs," the NRCs associated with the UNEs CLECs use in a line-splitting arrangement have been approved as TELRIC-compliant by each of the state commissions in the four applicant states. See NRC Reply Aff. ¶¶ 35-48. In addition, each state commission has specifically addressed AT&T's claim that line splitting is a unique product that requires unique NRCs, and each state commission has declined to impose such a requirement. See id. ¶¶ 39-48. AT&T's attempt to draw support from the state commissions for its unprecedented contention that unique "line splitting NRCs" are a prerequisite to section 271 relief is thus plainly misguided.[14]

C. Converting Line Splitting to UNE-P

As explained above, when a CLEC has established a line-splitting arrangement, SBC Midwest provisions a stand-alone xDSL-capable loop and a stand-alone switch port to the CLEC's collocation space (or to that of its data CLEC partner). See Chapman Aff. ¶¶ 83-84; see also Chapman Reply Aff. Attach. B at 1. SBC Midwest has had virtually no commercial demand for reversing the process – i.e., for converting a line-splitting customer to UNE-P. See Chapman

[14] AT&T also expresses confusion over the NRCs that apply to line splitting in the various states, and it further challenges the application of certain discrete charges in Indiana and Wisconsin. See AT&T Comments at 43-49; AT&T's DeYoung/Henson/Willard Decl. ¶¶ 55-73. As to the former issue, the constituent rates that apply to each component of a line splitting arrangement are set forth in the requesting CLEC's interconnection agreement or applicable state tariff, and, to the extent a CLEC does not understand which charges would apply in a particular scenario, SBC Midwest provides the relevant information on the website it maintains for CLECs. See NRC Reply Aff. ¶ 36. As to the latter issue, the Reply Affidavit of Carol Chapman, Karl Wardin, Jolynn Butler, Daniel McKenzie, and Scott VanderSanden (¶¶ 9-14 & Attachs. A, B) clarifies the rates that Indiana Bell and Wisconsin Bell charge in the various scenarios and makes clear that each of these is appropriately assessed.

Reply Aff. ¶ 11. But, in any case, in the event a CLEC wishes to accomplish that result, it has two options. First, it can perform the work of combining the unbundled loop with the stand-alone switch port itself within its collocation space. See id. ¶¶ 12-17. Second, it can ask SBC Midwest to do so. If the CLEC asks SBC Midwest to do the work, SBC Midwest's Loop Facility Assignment and Control System ("LFACS") selects and assigns a voice-grade loop to provision the UNE-P in the same manner that it would if it were selecting and assigning a loop to SBC Midwest in a retail POTS arrangement.

To AT&T, this process – and, in particular, the fact that it typically results in the assignment of new loop for the UNE-P service, rather than re-using the xDSL-capable loop in the line-splitting arrangement – is discriminatory. See AT&T Comments at 14-20; see also MCI Comments at 2. In truth, the process works this way specifically because it is *non*discriminatory. When Michigan Bell provisions a POTS loop to a customer previously served by a line-splitting arrangement, LFACS selects and assigns the loop on the basis of certain specific engineering design criteria for voice-grade loops. See Chapman Reply Aff. Attach. B at 2. An xDSL-capable loop previously used in a line-splitting arrangement may or may not meet those criteria. Id. Moreover, that loop is unlikely to be available for assignment at the time LFACS selects and assigns the voice-grade loop.[15]

[15] Because an xDSL-capable loop is a "designed" circuit, the physical disconnection of that loop does not actually occur until five business days after the requested due date. See Chapman Aff. ¶ 25. It is at the conclusion of that "five-day hold" that the loop becomes available for assignment by LFACS. Id. Unless the CLEC requests a due date for the new UNE-P five days after the due date for the disconnect of the xDSL-capable loop, that loop would ordinarily not be available for assignment. Even then, however, LFACs would not necessarily select that loop for the new UNE-P. See id.; Chapman Reply Aff. Attach. B at 2 n.7.

The nondiscrimination requirements of the 1996 Act and the Commission's own rules require Bell companies to treat CLECs in substantially the same manner as they treat their own retail operations when provisioning UNE-P. See, e.g., California Order, App. C, ¶ 37. As a result, when SBC Midwest provisions a UNE-P arrangement for an end user previously served in a line-splitting arrangement, it uses the same provisioning processes as it does in the retail context. See, e.g., Chapman Reply Aff. Attach. B at 2. Specifically, as in the retail context, LFACS surveys the inventory of available loops and selects one that meets various design criteria for voice-grade loops. And, as in the retail context, that process will likely result in the assignment of a new loop, depending in part on whether the xDSL-capable loop is available for assignment in LFACS and on whether it meets the relevant design criteria. See id.

SBC's processes thus ensure that, with respect to any particular customer, SBC and the CLECs stand in the same shoes. AT&T's response to this point, which it relegates to a footnote, is to assert that, even so, SBC's processes are discriminatory. See AT&T Comments at 15 n.12. That is so because, according to AT&T, the relevant question is not whether SBC's processes treat SBC retail and the CLECs in substantially the same manner, but rather whether those processes work the same across different types of *customers*. See id. That is to say, according to AT&T, because line-*sharing* customers can typically drop their data service but retain the same loop for voice service (whether that service is provided by SBC or a CLEC), line-*splitting* customers must also be able to do so (again, whether the voice service is provided by SBC or a CLEC). But AT&T can find no support for this novel view of "discrimination" in the Commission's orders, and SBC is aware of none. To the contrary, the Commission's orders uniformly stand for the principle that, to gauge whether a BOC's processes are

"nondiscriminatory" for purposes of section 271, one must compare the BOC's wholesale processes to analogous processes afforded the BOC's retail arm. See California Order, App. C, ¶ 37 ("A BOC must provision competing carriers' orders for . . . UNE-P services in substantially the same . . . manner as it provisions orders for its own retail customers."); Massachusetts Order ¶ 90 (examining whether Bell company applicant "provisions competing carriers' orders for . . . UNE-P services in substantially the same . . . manner as it provisions orders for its own retail customers," including an examination of "the procedures [the applicant] follows when provisioning competitors' orders"); Kansas/Oklahoma Order ¶ 154 (examining "the procedures SWBT follows when provisioning competitors' orders" and concluding that "SWBT provisions competing carriers' orders for . . . UNE-P services in substantially the same . . . manner as it provisions orders for its own retail customers"). The process at issue here amply satisfies that test, and it is presumably for that reason that AT&T is ultimately forced to argue that the question of discrimination is "irrelevant." See Ex Parte Letter of Richard E. Young on behalf of AT&T to Marlene H. Dortch, FCC, at 6, WC Docket No. 03-138 (FCC filed Aug. 15, 2003). As the Commission's orders make clear, that question is dispositive, not "irrelevant."

The Commission need not, however, even resolve this issue here. As noted above, SBC has received a negligible number of orders to convert line-splitting arrangements to UNE-P, and AT&T's concerns are accordingly almost entirely theoretical. The section 271 process is an inappropriate forum in any event for working out complex, fact-intensive issues relating to BOC provisioning processes; that is especially so where, as here, there is virtually no commercial demand for the process at issue.[16]

[16] This point is confirmed by the single example provided by AT&T of a Bell company that forces re-use of the loop in the line splitting to UNE-P scenario: Verizon in New York. See

Two additional reasons make that result particularly appropriate here. First, as Carol Chapman explains in her reply affidavit, SBC is presently working with MCI to develop a process to force the re-use of the loop in the situation described above. See Chapman Reply Aff. ¶ 19. Although much work remains to be done, SBC is committed to working to develop a process that meets the needs of the CLEC community and fully expects to be able to do so. Id. Second, as noted above, a CLEC that is dissatisfied with SBC's existing process can perform the work of combining the unbundled loop with the stand-alone switch port itself within its collocation space. See Chapman Aff. ¶¶ 82-89; Chapman Reply Aff. ¶¶ 12-17. Any CLEC dissatisfied with SBC's existing process can thus take matters into its own hands while working with SBC to develop a long-term solution.[17]

D. E911

AT&T challenges SBC's policies and practices for maintaining and updating E911 database entries for CLEC line-splitting customers. See AT&T Comments at 12-13; 23-26. Its

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AT&T Comments at 3. Verizon's process is the result of a *state commission* proceeding conducted when a CLEC – in that case, Covad – raised the issue in the ordinary course. The parties, apparently unable to resolve the issue on a business-to-business basis, then litigated the issue, and the state commission, consistent with its duties under the 1996 Act to resolve such complex, fact-intensive issues, released an order setting forth the parties' respective obligations. AT&T could have taken a similar course in any of the applicant states, giving the parties ample opportunity to address the issue either in business-to-business discussions or, if necessary, in litigation before the relevant state commission. AT&T, however, appears to be more interested in using this issue for leverage in the regulatory process than it is in reaching a solution.

[17] AT&T objects that this scenario is "unrealistic." AT&T Comments at 18-19. After all, it would require AT&T to actually install its own equipment in its own collocation cage (Heaven forefend!), or, worse yet, require it to use its *own* technicians to configure that equipment. See id. SBC simply does not know what to make of these complaints, other than to note that, sometimes, to be a telephone company, one actually has to be a telephone company. See generally Chapman Aff. ¶¶ 82-89; Chapman Reply Aff. ¶¶ 13-18.

complaint takes two forms: first, that SBC's process for ensuring accurate E911 entries for new line-splitting arrangement is unreliable, and, second, that SBC's policies for allocating responsibility for E911 updates in the applicant states – even if they meet with AT&T's approval today – might become objectionable at some point in the future. Both claims are taken practically verbatim from AT&T's comments in the Michigan proceeding, and, as in that case, neither is remotely sufficient to rebut SBC's showing of checklist compliance. See generally Valentine Reply Aff. ¶¶ 2-14 & Attach. A (Reply App., Tab 11).

As an initial matter, AT&T's challenge to SBC's administration of its E911 duties must be viewed through the lens of SBC's E911, Directory Assistance, and Operator Call Completion services as a whole. See 47 U.S.C. § 271(c)(2)(B)(vii). As SBC demonstrated in the Application, its processes in each of these respects is consistent with this Commission's rules and orders, and its performance with respect to this checklist item has been exemplary. See SBC Br. at 108-12.

AT&T does not dispute this broad showing. Instead, it contends that SBC Midwest fails the checklist solely because its local service center ("LSC") representatives are purportedly required to exercise "judgment" in determining whether, when a CLEC orders a new line-splitting arrangement, the E911 record associated with the switch port serving the customer does not change. See AT&T Comments at 12-13. But, for one thing, AT&T does not contend that this purported judgment-call has in fact resulted in any inaccuracies in the E911 database.[18]

[18] As SBC Midwest has explained, it has identified and corrected approximately 50 E911 records that listed an SBC Midwest central office as the customer premises. See Cottrell/Lawson Aff. ¶ 215. As SBC Midwest has further explained, it has corrected those records. See id. More to the point for present purposes, those records were created *before* SBC Midwest put in place the process described in the text, and therefore have no bearing on the adequacy of that process. See Brown/Cottrell/Lawson Reply Aff. ¶ 119 (Reply App., Tab 3).

And, in any event, the factual predicate of AT&T's contention is simply wrong. The LSC service representatives are *not* required to exercise "judgment" on the matter. For orders for unbundled switch ports that flow through SBC's systems with no need for manual handling, SBC's systems are programmed to populate the end user's location as the service address, regardless of what service the CLEC chooses to provide to the end user. See Brown/Cottrell/Lawson Reply Aff. ¶ 118. And, contrary to AT&T's assumption, where such orders do require manual handling, SBC's methods and procedures likewise require population of the end user's location as the service address. See id. ¶ 120.

AT&T also challenges SBC's policies for allocating responsibility for E911 updates for customers served via UNE-P. See AT&T Comments at 13, 25. Here too, however, the precise nature of AT&T's allegation is worthy of note. AT&T does not challenge the policy that is in fact in place in the applicant states, pursuant to which the BOC Applicants are responsible for updating E911 records to account for generally applicable MSAG updates. Instead, it challenges SBC's position that, *in California*, under the specific language of the interconnection agreement in effect between Pacific Bell and AT&T, AT&T is required to perform all E911 updates (including MSAG updates) for its UNE-P customers. But SBC's position in that pending dispute is not remotely germane to the present proceeding. The position SBC is advocating in California is driven by the precise terms of its interconnection agreement with AT&T. See Valentine Reply Aff. ¶ 7 n.4 & Attach. A ¶ 29. AT&T does not, because it cannot, provide any evidence to suggest that SBC has advocated a similar position in any of the applicant states. Moreover, SBC has committed to continuing to perform all E911 updates for AT&T's UNE-P customers pending the resolution of the dispute. See id. ¶ 7 n.4. Similarly, the limited difference in process for

California E911 database updates in a conversion from a UNE-P or line-shared arrangement to a line-splitting arrangement is driven by system differences between Pacific Bell and SBC Midwest. See id. ¶¶ 7-10. Accordingly, AT&T's rhetoric aside, this Commission simply has no reason, in this Application, to delve into this dispute.[19]

III. DATA INTEGRITY

As SBC explained in its opening brief (at 20-28), the performance-measurement system throughout SBC's Midwest region has been comprehensively reviewed and verified by E&Y, using a methodology this Commission has endorsed previously. See Ehr/Fioretti Aff. ¶¶ 18-31. E&Y's audit of the BOC Applicants' performance measures is now entirely complete, and it confirms that SBC Midwest's performance data are accurate and reliable. See id. ¶ 22 & Attach. A.

As they did in the Michigan proceeding, several CLECs dispute this conclusion. See, e.g., AT&T Comments at 68-84; MCI Comments at 1 (incorporating by reference the Declaration of Sherry Lichtenberg, WC Docket No. 03-138 (FCC filed July 2, 2003)); TDS Metrocom Comments at 2-8; ACN et al. Comments at 11-15. The primary basis for these challenges, however, is the simple fact that BearingPoint – which is also undertaking a review of SBC Midwest's performance measures – has not yet completed that review. But, in view of E&Y's completed audit – which, again, it conducted using a methodology this Commission has

[19] AT&T and MCI additionally challenge SBC's process for permitting separate CLECs, on separate versions of SBC's ordering interface, to submit related orders for a single line-splitting arrangement. AT&T Comments at 21-22; MCI Comments at 5. The CLECs only recently brought this issue to SBC's attention, at which point SBC both instructed the CLECs how to perform such joint ordering presently and agreed to a system modification that will, once implemented, make such joint ordering easier. See Cottrell/Lawson Aff. ¶¶ 202-208; Brown/Cottrell/Lawson Reply Aff. ¶¶ 38-41.

approved previously – it plainly is not enough simply to identify the existence of another performance measure review. Rather, the burden is on the parties opposing SBC's Application to establish that BearingPoint, in its ongoing review, is unearthing evidence that materially calls into question E&Y's audit or otherwise suggests that SBC's performance data are not reliable. In the absence of such evidence, the ongoing BearingPoint audit is relevant only insofar as it provides *additional* assurance that the BOC Applicants will continue to track their wholesale performance with measures that are accurate, reliable, and verifiable.

It is clear, moreover, that the ongoing BearingPoint audit is *not* uncovering any evidence that meaningfully rebuts the authoritative conclusion reached by E&Y. On the contrary, as SBC has explained, at the time of the Application, with respect to BearingPoint's ongoing PMR4 test – which primarily addresses data processing – none of the BearingPoint "Open" exceptions or "Not Satisfied" test findings in its interim status reports in any way compromised the results of the E&Y audit. See Ehr/Fioretti Aff. ¶ 103. Moreover, none of these issues has any material impact on the reported performance results on which the BOC Applicants rely in this Application. See id. ¶¶ 104-113. Likewise, with respect to BearingPoint's ongoing PMR5 test – which is addressing SBC Midwest's calculation of data and application of the business rules – SBC explained that (i) BearingPoint's "blind replication" test was materially "matching" SBC Midwest's results for key measures historically relied upon by the Commission at an extremely high rate, id. ¶¶ 140-143 & Attach. E; and (ii) any issues BearingPoint had identified with respect to the business rules involved either interpretive questions pending before the state commissions or matters that had been resolved previously, see id. ¶¶ 145-156 & Attach. F.

As the Reply Affidavit of James Ehr and Salvatore Fioretti attests, those trends continue to date. Specifically, on August 1, 2003, BearingPoint released its most recent interim report (included as Ehr/Fioretti Reply Aff. Attach. A), which confirms the trends noted above. Specifically, with respect to PMR4, that report identifies no new issues that would call into question E&Y's assessment of the SBC Midwest's data processing. See Ehr/Fioretti Reply Aff. ¶¶ 43-45, 72-76 (Reply App., Tab 9); Ex Parte Letter from Colin S. Stretch on behalf of SBC to Marlene Dortch, FCC, Attach. at 3 (FCC filed Aug. 19, 2003) ("SBC Aug. 19 Ex Parte"). With respect to PMR5, BearingPoint's "blind replication" test continues to match SBC Midwest's reported data for key measures at an extremely high level (for example, 95.8% on a four-state basis, based on a 1% materiality threshold). See Ehr/Fioretti Reply Aff. ¶¶ 78-82; SBC Aug. 19 Ex Parte, Attach. at 4-6. And, although the August 1 report identifies certain new observations and findings, SBC Midwest has confirmed that none of them materially affects the data upon which the BOC Applicants rely in this Application. See Ehr/Fioretti Reply Aff. ¶¶ 87-117; SBC Aug. 19 Ex Parte, Attach. at 6-8.

In light of this evidence, the DOJ's cryptic assertion that the Commission "should use great care before dismissing, based solely on [E&Y's] findings, problems identified by BearingPoint or indicated by marketplace performance data" is difficult to fathom. DOJ Eval. at 19-20. SBC has never suggested that any BearingPoint finding be "dismissed" outright, based solely on E&Y's findings. Rather, it has demonstrated, in extraordinarily painstaking detail, that each such finding either has been corrected or is immaterial. The DOJ identifies no instance in which this detailed, laborious process has sought to "dismiss" any BearingPoint finding that retains relevance today, and SBC is aware of none.

The opposing parties, moreover, have no answer to this analysis. To be sure, AT&T asserts that BearingPoint has "[f]ound [n]umerous [e]rrors" that E&Y failed to uncover. AT&T Comments at 74. But those so-called "errors" in every case involve issues that have already been addressed and/or that have no material impact on the data on which the BOC Applicants rely in this Application. See Ehr/Fioretti Reply Aff. ¶¶ 86-117. Thus, for example, AT&T makes much of Observation 643, relating to the truncating of a time calculation in data captured by PMs 6, 11, 11.2, and 95. See AT&T Comments at 77; AT&T's Moore/Connolly Decl. ¶ 135. But this observation was not material to begin with – since, even where the PM involved was measured against a benchmark, the amount of time affected by this issue was minute – and it was in any event resolved with November 2002 results. See Ehr/Fioretti Reply Aff. ¶ 89. Likewise, AT&T points to Observation 687 – involving the exclusion of certain transactions from the numerator but not the denominator of PM 10.4, see AT&T Comments at 77-78; AT&T's Moore/Connolly Decl. ¶ 136 – without acknowledging that SBC Midwest implemented corrective action in August 2002 (and restated the results for July of that year). See Ehr/Fioretti Reply Aff. ¶ 90. Indeed, time and again AT&T points to observations and exceptions that it characterizes as significant, without acknowledging that, in virtually all cases, the issue is immaterial and/or it has been corrected. See Ehr/Fioretti Reply Aff. ¶¶ 87-117. AT&T's scattershot allegations thus fall far short of rebutting the prima facie showing of data integrity based on E&Y's completed audit.

Presumably recognizing that its evidence does not remotely call into question the results of the E&Y audit, AT&T attempts to discredit the auditor itself. See AT&T Comments at 70-71 (raising concerns about E&Y's "objectivity"). But AT&T does not, because it cannot, provide

any evidence to support its reckless accusation that E&Y compromised its objectivity in validating SBC Midwest's performance data. As the ICC explained in response to a similar claim,

> [T]he [contention] that E&Y is not objective or impartial [is] unsupported and unfounded. . . . E&Y designed its own procedures, but it was based on accepted attestation principles and its extensive experience in the field. . . . The CLECs had ample opportunity to review E&Y's report and methodology and ask questions of E&Y personnel under oath, and they had access to E&Y's working papers. . . . E&Y like BearingPoint fully and credibly provided answers to numerous written questions (as well as verbal follow-up questions) during the course of the workshops. Further, . . . E&Y had identified exceptions, and the inclusion of those exceptions in its report, together with all the other evidence confirms, to this Commission, that E&Y is objective.[20]

AT&T offers nothing to call this considered judgment into question. Its attack on E&Y should accordingly be seen for what it is: an attempt to discredit the reviewer because it does not like the results of the review.

SBC Midwest's showing of data integrity, moreover, rests on more than E&Y's third-party validation (persuasive though that is). In particular, SBC's Application stressed the "open and collaborative nature of metric workshops," the supervision by the applicable state commissions, SBC's "readiness to engage in data reconciliations" between its own records and those of the CLECs, and its internal and external data controls. Georgia/Louisiana Order ¶¶ 18-19; see SBC Br. at 29-32. No party seriously contests any aspect of that showing. See Ehr/Fioretti Reply Aff. ¶ 50. The Commission has previously placed substantial reliance on evidence such as this to confirm the accuracy and reliability of Bell company applicants' performance data. E.g., Georgia/Louisiana Order ¶¶ 18-19. It should do the same here.

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[20] Order on Investigation, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996, No. 01-0662, ¶ 2939 (ICC May 13, 2003) ("ICC Final Order") (App. C-IL, Tab 135).

Indeed, it is precisely evidence such as this that caused the PSCW and PUCO – which did *not* rely on the E&Y validation on which SBC Midwest primarily relies here – to nevertheless conclude that SBC Midwest's performance data were sufficiently reliable to demonstrate compliance with the checklist. As the PSCW puts it, even without E&Y, the "quantum and quality of evidence" that SBC Midwest provided to address data reliability permitted that commission to "reasonably conclude" that Wisconsin Bell had met the requirements of section 271. PSCW Phase II Final Order at 18; see also PUCO Comments at 2-3 (noting that, "[t]hrough the expenditure of immense resources, both public and private, SBC Ohio's operations and track record have been scrutinized to a demanding degree," and that "the resulting record" permitted the PUCO to conclude that "SBC Ohio's network, for the purpose of satisfying the requirements of the 1996 Act, is open to competitors on a non-discriminatory basis"); accord ICC Comments at 16 (concluding that Illinois Bell's data "accurately reflect[] [its] commercial activity," based on "BearingPoint findings compiled to date, and [Illinois Bell's] commitment to continue testing performance measures until they pass, taken in conjunction with the E&Y Audit results and other assurances of reliability").

In short, the evidence SBC has amassed regarding data integrity – particularly when considered in conjunction with the findings of the state commissions and the absolute failure of *any* party to produce *any* evidence calling that showing into question – leads inexorably to the conclusion that SBC Midwest's performance data are stable, accurate, and reliable.

IV. NONDISCRIMINATORY ACCESS TO OSS

The Application provided overwhelming evidence that each BOC Applicant provides competing carriers nondiscriminatory access to its OSS. See SBC Br. at 54-87. SBC Midwest's

regional OSS are handling unprecedented commercial volumes, and they are meeting or exceeding nearly all of the benchmarks established by the state commissions. And those same systems have passed – on *five* separate occasions (including Michigan) – an OSS test that the ICC properly describes as, "[w]ithout doubt, . . . one of the most comprehensive OSS Operational tests in the nation." ICC Comments at 79. As explained below, and in detail in the Brown/Cottrell/Lawson reply affidavit, although a few parties take issue with limited aspects of this showing, none of these claims rebuts the BOC Applicants' overwhelming showing of checklist compliance.

A. Post to Bill Notifications

The Application provided abundant evidence demonstrating that SBC Midwest provides nondiscriminatory access to post to bill ("PTB") notifications – i.e., notices that tell the CLEC that an order has been updated to SBC Midwest's billing systems. See Cottrell/Lawson Aff. ¶¶ 123-130. Although SBC Midwest has experienced certain isolated incidents involving untimely PTB notifications in the past, those incidents have all been fully addressed, as SBC Midwest has comprehensively documented in the pending Michigan application. See id.; Brown/Cottrell/Lawson Reply Aff. ¶¶ 76-80. As the ICC explains, SBC Midwest "ha[s] taken prompt and aggressive actions to identify the cause [of, among other issues, issues with PTB notifications] and to fix them with minimal impact to the CLEC." ICC Comments at 65.

AT&T nevertheless continues to insist that SBC Midwest's performance with respect to PTBs inhibits its ability to compete. But, as an initial matter, AT&T's claims are based on a misunderstanding of SBC Midwest's OSS. AT&T asserts that it cannot send any subsequent orders on an end user's account until it receives the PTB advising it that the service order has